***

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A. No. 368 of 2004

Date of decision: 21.8.2007

Devinder Singh and another

...Appellants

Versus

Smt. Amar Devi

...Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Narender Lucky, Advocate for the appellants.

****

RAJESH BINDAL, J.

This is plaintiffs' second appeal against the concurrent findings of fact by both the Courts below whereby suit filed by the appellants for permanent injunction restraining respondent from interfering in the peaceful possession and use of Thara/platform is dismissed.

As per the site plan, both the parties are living in their respective adjoining houses. Dispute between the parties is regarding the platform, which exists in front of house of the respondent. On the issue as to whether the plaintiffs are entitled to injunction as prayed for, the onus of which was on the appellant/plaintiffs, they did not adduce any evidence except self serving statement of plaintiff no.2. The evidence of the appellant was ordered to be closed by the Court as he failed to avail of sufficient opportunities to lead his evidence. He was not able to show as to how he was owner in possession of the platform in question. On the other hand, respondent had proved sale deed Ex. D1 wherein there was a recital that platform in front of her house was part of the property, ownership of which was transferred to the respondent.

***

With these concurrent findings of fact on record, which could not be disputed by learned counsel for the appellant at the time of hearing, I do not find any merit in the present appeal.

Accordingly, the same is dismissed.

August 21, 2007 **(Rajesh Bindal)**
Pka **Judge**